

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

APRIL 6, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Vice President
Ron Alvarado, Member
William Elkins, Member
Lorrie I. Ward, Member

2. ELECTION OF OFFICERS

ACTION: The Board voted to re-elect Florence Bos as President.

VOTE: Carpenter, Alvarado, Elkins, Ward - Aye.

ACTION: The Board voted to elect Ron Alvarado as Vice President.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

ACTION: The Board voted to re-elect Ron Alvarado as Public Employees Retirement System representative.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

3. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board annual selection conference is scheduled for April 8-9, 1999, at the Sacramento Convention Center. The conference is expected to attract thousands participants.
- B. State Personnel Board staff is planning on a celebration and job fair at the Capitol on May 4, 1999, during National Public Service Recognition Week. The event will include displays of public services by state departments, local government and recruitment booths. A rally is planned at the noon hour with presentations by the administration and members of the legislature.
- C. State Personnel Board staff is working with the International Personnel Management Association to develop a Human Resources Professional certification program.
- D. The Los Angeles Hearing Office will move on April 10, 1999, to 320 West 4th Street, Los Angeles.
- E. State Personnel Board staff will be meeting with Finance and staff of the legislature in anticipation of budget hearings.

4. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Association of California State Attorneys and Administrative Law Judges (ACSA) v. Department of Personnel Administration (DPA) - ACSA has filed this petition for writ of mandate and complaint for declaratory relief alleging that the Unit 8 Memorandum of Understanding (MOU) and implementing legislation violate Article VII of the California Constitution by authorizing private contractors to perform services that have historically been performed by state civil service employees. The petitioners further contend that any expenditure of state funds for such purposes is an illegal expenditure of state funds. The

petitioners seek a writ of mandate to compel DPA to comply with the California Constitution and refrain from contracting out the work of state civil services employees and a declaration that the MOU and implementing legislation are unconstitutional.

- B. State Personnel Board v. Department of Personnel Administration, et al. - Court signed the Board's proposed judgment in this case on March 19, 1999 and State Personnel Board has served a Notice of Ruling.
- C. Connerlly v. State Personnel Board, et al. (constitutionality of affirmative action statutes) - On March 24, 1999, cross-appeal was filed by the real parties in interest.
- D. Codioli v. State Personnel Board (constitutionality of managerial broadbanding demonstration project) - On Friday March 26, 1999, a hearing was held before Sacramento Superior Court Judge Lloyd Connelly on the challenge by Professional Engineers in California State Government to the managerial broadbanding demonstration project. The Court has ordered further briefing on the issue of whether allowing departments broad authority to specify the requirements for positions within the managerial broadbands, is consistent with the State Personnel Board's constitutional obligation to prescribe classifications.
- E. Luna v. State Personnel Board - Court denied petition for writ of mandate challenging the Board's precedential decision (SPB Dec. No. 98-08) in this case.
- F. Davenport v. State Personnel Board - The federal district court dismissed this action in its entirety.

Other Matters

- A. IUOE/Caltrans hearing on challenged contracts. Continued to 5/21/99, pending settlement negotiations are continuing.
- B. Completed interviews for the Administrative Law Judge position in Fresno. We are checking references and expect to make an offer this week.

5. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. AB 1001 (Villaraigosa) - This bill amends the Fair Employment and Housing Act to add "sexual orientation" as an unlawful basis for discrimination.

WATCH

Vote: Bos, Carpenter, Alvarado, Elkins, Ward - Aye

- B. SB 1073 (Ortiz) - This is the State Personnel Board sponsored omnibus bill, the bill makes a variety of adjustments to clarify the State Civil Service Act and related laws.

SUPPORT

Vote: Bos, Carpenter, Alvarado, Elkins, Ward - Aye

6. PERS UPDATE - Ron Alvarado

- A. The retirement fund is at \$153 billion.
- B. The Public Employment Retirement System Board voted to invest \$200 million in Asia.

7. ORAL ARGUMENT

Oral argument in the matter of RANDY HENDERSON, Case No. 97-1799. Appeal from dismissal. Department of the Youth Authority.

Persons Participating:

Christine Albertine, Assistant Chief Counsel, California Correctional Peace Officers Association, representing appellant.

Karen J. Kilpatrick, Hearing Specialist, Legal Office, Department of the Youth Authority, representing Department.

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of CLADIS SILVIE, Case No. 98-2458. Appeal from dismissal. Department of Corrections.

ACTION: Withdrawn as oral argument, written argument submitted to Board.

BOARD ACTIONS

9. STATE PERSONNEL BOARD SUMMARY MINUTES OF MARCH 23, 1999

ACTION: Adopted on April 6, 1999.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

10. ACTION ON SUBMITTED ITEMS

ACTION: (See pages 18-20)

11. ADMINISTRATIVE LAW JUDGE CASES

On April 6, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

COURT REMAND DECISIONS

ANDREW HERNANDEZ, CASE NO. 96-3491

Appeal from rejection

Department of California Highway Patrol

ACTION: On April 6, 1999, adopted Board resolution setting aside prior decisions, revoking rejection, ordering reinstatement, quarterly back pay and benefits, consistent with Superior Court order.

RAUL GARCIA, CASE NO. 39262

Appeal from demotion

Department of Corrections

ACTION: On April 6, 1999, adopted Board resolution revoking demotion, back pay and benefits.

BRUCE FERRIS, CASE NO. 39261

Appeal from dismissal

Department of Corrections

ACTION: On April 6, 1999, adopted Board decision modifying dismissal to 1 year suspension, awarding back pay and benefits.

HARVEY W. JUE, CASE NO. 33884

Appeal from dismissal

Department of Consumer Affairs

ACTION: On April 6, 1999, adopted Board resolution setting aside prior decision, revoking dismissal with reinstatement, awarding back pay and benefits, consistent with Superior Court order.

CHIEF COUNSEL RESOLUTIONS

ADENA REED, CASE NO. 98-2660

Appeal from rejection

Department of Education

ACTION: Denied request for order to show cause.

CHRIS KERHULAS, CASE NO. 97-4381

Appeal from dismissal

California State University, Northridge

ACTION: Denied request for order to show cause.

KAROL ENFERADI, CASE NO. 97-5120, 97-4485

Appeal from dismissal

Department of Consumer Affairs

ACTION: Denied request for order to show cause.

PROPOSED DECISIONS

JAMES L. CUMMINGS, CASE NO. 98-3154

Appeal from 5 percent reduction in salary for 6 months

Department of Corrections

ACTION: Reduction in Salary Revoked

MICHAEL CARL, CASE NO. 98-4549

Appeal from 5 days suspension

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

ERVIN PARKER, CASE NO. 98-4766

JESSIE L. MATTHEWS, CASE NO. 98-4820

Appeals from official reprimand

Department of Corrections

ACTION: Official Reprimand of Ervin Parker Sustained and Official Reprimand of Jessie L. Matthews Revoked.

JOHN D. WALLS, CASE NO. 98-4863

Appeal from dismissal

Department of Corrections

ACTION: On April 6, 1999, Board adopted findings of fact, but modified dismissal to 3 months suspension.

RALPH REY, CASE NO. 98-2752

Appeal from dismissal

Department of Mental Health

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

FRANCISCO VELEZ, CASE NO. 98-3468

Appeal from dismissal

Department of Transportation

ACTION: Dismissal Modified to 8 Months Suspension

GERALD JONES, CASE NO. 98-1250

Appeal from 5 percent reduction in salary for 3 months

Board of Control

ACTION: Reduction in Salary Revoked

GERALD JONES, CASE NO. 98-1918

Appeal from dismissal

Board of Control

ACTION: Dismissal Revoked

MICHAEL E. MULLALY, CASE NO. 98-4841

Appeal from dismissal

Military Department

ACTION: Dismissal Sustained

VERNON WASHINGTON, CASE NO. 98-1231

Appeal from demotion

Department of Corrections

ACTION: Demotion Modified to Temporary Demotion For 12 Pay Periods and sustaining transfer

DUANE WILLIS, CASE NO. 98-4304

Appeal from dismissal

Department of Transportation

ACTION: Dismissal modified to 1-month suspension

LORI ALEXANDER, CASE NO. 97-5243

Appeal from 30 Calendar Days suspension

Employment Development Department

ACTION: 30 Calendar Days Suspension Modified to 15 Calendar Days Suspension

LEROY SCHILLER, CASE NO. 98-3489
Appeal from 5 percent reduction in salary for 12 months
Department of Corrections
ACTION: Reduction in Salary Sustained

DEPARTMENT OF WATER RESOURCES, CASE NO. 98-4824
(ADRIANNE LAVELL)
Appeal from medical clearance/grant of request for
reinstatement after medical termination
Department of Water Resources
ACTION: Stipulated Settlement Adopted

KINBERLY T. AKIYAMA, CASE NO. 98-2668
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal Sustained

PETITIONS FOR REHEARING

RONALD BORTMAN, M.D., Case No. 98-4003
Appeal from 15 working days suspension
Department of Social Services
ACTION: Petition for rehearing filed by Appellant Denied

JIMMIE L. CARTER, CASE NO. 98-2125
Appeal from Dismissal
Department of General Services
ACTION: Petition for rehearing filed by Respondent Denied

ROBERT E. CLAYTON, CASE NO. 98-2486
Appeal from dismissal
Associate Governmental Program Analyst
Department of Social Services
ACTION: Petition for rehearing filed by Appellant Denied

BRADLEY P. ONCKEN, CASE NO. 98-1835
Appeal from 3 months suspension
Department of the Youth Authority
ACTION: Petition for rehearing filed by Respondent Denied

EDWARD J. RANDLE, CASE NO. 98-0993
Appeal from 60 working days suspension
Department of Transportation
ACTION: Petition for rehearing filed by Appellant Granted

DONALD STORMS, CASE NO. 98-1838

Appeal from official reprimand

Department of Mental Health

ACTION: Petition for rehearing filed by Appellant Denied

ROBERT CENDEJAS, CASE NO. 98-2260

Appeal from 30 working days suspension

Department of Corrections

ACTION: Petition for rehearing filed by Respondent Denied

THOMAS BENSON, CASE NO. 98-2180

Appeal from 60 working days suspension

Department of Corrections

ACTION: Petition for rehearing filed by Respondent Denied

12. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION. (See pages 21-22)

13. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On April 6, 1999, the Board adopted the following decisions
presented by Elise Rose, Chief Counsel, California State
Personnel Board.
VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

CASES HEARD BY A STAFF HEARING OFFICER

- A. RONALD L. WOOD, Case No. 98-2737
The appeal of Ronald Wood from the action of the
Department of Corrections to withhold his name from
certification to the eligible list for Correctional
Officer.
ACTION: GRANTED
- B. JEFFERY A. A. Timberlake from the action of the
California Highway Patrol to withhold his name from
certification to the eligible list for Cadet.
ACTION: DENIED
- C. WITHDRAWN
- D. AMY WRIGHT, Case No. 97-3934

The appeal of Amy Wright from the action of the California Highway Patrol to withhold her name from certification to the eligible list for Cadet.

ACTION: DENIED

CASES NOT HEARD BY A STAFF HEARING OFFICER

- E. VICTOR A. GILLESPIE, JR., Case No. 98-4449
Classification: Licensing-Registration Examiner
ACTION: GRANTED
- F. TERI ANN KALER, Case No. 98-4214
Classification: Licensing-Registration Examiner
ACTION: GRANTED
- G. HECTOR F. SANTA CRUZ, Case No. 98-4217
Classification: Licensing-Registration Examiner
ACTION: GRANTED

PETITION FOR REHEARING

CASE NOT HEARD BY A STAFF HEARING OFFICER

- H. Regina L. Uliana, Case # 98-3060
ACTION: DENIED

WITHHOLD DENIAL CASES

CASES NOT HEARD BY A STAFF HEARING OFFICER

I.

- 1. ERIC R. ARAGON, Case No. 98-5137
Classification: Correctional Officer
ACTION: DENIED
- 2. CHERRY BRADSHAW, Case No. 98-4913
Classification: Correctional Officer
ACTION: DENIED
- 3. ORISSA A. DANIELS, Case No. 98-4785
Classification: Correctional Officer
ACTION: DENIED
- 4. MIGUEL A. DELGADILLO, Case No. 98-4571

Classification: Correctional Officer
ACTION: DENIED

5. JAMES C. FIORI, Case No. 98-5058
Classification: Correctional Officer
ACTION: DENIED
6. DELORA D. HAYASHI, Case No. 99-0135
Classification: Accountant 1, Specialist
ACTION: DENIED
7. SAUL F. HERNANDEZ, Case No. 98-4904
Classification: Correctional Officer
ACTION: DENIED
8. JAMES T. HILL, Case No. 98-4224
Classification: Correctional Officer
ACTION: DENIED
9. ELLIOTTE L. JOHNSON, Case No. 98-4907
Classification: Correctional Officer
ACTION: DENIED
10. STEVEN L. KLEIN, Case No. 98-4048
Classification: Cadet, California Highway Patrol
ACTION: DENIED
11. QUINTIN F. LEWIS, Case No. 98-4990
Classification: Correctional Counselor 1
ACTION: DENIED
12. JOHN H. MILLER, JR., Case No. 98-4570
Classification: Correctional Officer
ACTION: DENIED
13. DUANE L. NAVARRO, Case No. 98-2355
Classification: Correctional Officer
ACTION: DENIED
14. CHRISTOPHER A. NEWMAN, Case No. 98-4910
Classification: Cadet, California Highway Patrol
ACTION: DENIED
15. JOHNNY R. PADILLA, Case No. 98-4219
Classification: Correctional Officer
ACTION: DENIED
16. ROSE A. PARKS, Case No. 98-5022
Classification: Correctional Officer

ACTION: DENIED

17. MARK J. REDD; Case No. 99-0131
Classification: Cadet, California Highway Patrol
ACTION: DENIED
18. STEVEN R. RERUCHA, Case No. 98-3402
Classification: Correctional Officer
ACTION: DENIED
19. JUAN M. REYES, Case No. 98-5053
Classification: Correctional Officer
ACTION: DENIED
20. DOLORES D. STONHAM, Case No. 98-4911
Classification: Staff Services Analyst - General
ACTION: DENIED
21. JOHN M. WALTER III, Case No. 98-3795
Classification: Correctional Officer
ACTION: DENIED
22. WITHDRAWN

DISMISSAL CASES

- * CHARLES DAVID DEBENEDETTI, Case No. 98-4233
Classification: Correctional Officer
ACTION: RESCINDED PRIOR DISMISSAL - Case reopened at appellant's request.
- * MARCO A. CASTILLO, Case No. 98-4242
Classification: Licensing-Registration Examiner
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

14. MEDICAL APPEALS

On April 6, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

CASES HEARD BY A STAFF HEARING OFFICER

- A. CHRISTOPHER BERRY, Case No. 98-0258

The appeal of Christopher Berry from the Department of California Highway Patrol medically disqualifying him from employment as a Cadet.

ACTION: DENIED

- B. KEITH HICKS, Case No. 98-1220
The appeal of Keith Hicks, from the Department of California Highway Patrol medically disqualifying him from employment as a Cadet.

ACTION: DENIED

- C. RICHARD LOWERY, Case No. 98-3953
The appeal of Richard Lowery from the Department of Mental Health medically disqualifying him from employment as a Psychiatric Technician.

ACTION: DENIED

CASES NOT HEARD BY A STAFF HEARING OFFICER

- D. VICTOR BEAS, Case No. 99-0744
Classification: Correctional Officer
Psychological disqualification.

ACTION: GRANTED

- E. WILLIAM MONEY, Case No. 99-0489
Classification: Fish and Game Warden Cadet
Psychological disqualification.

ACTION: GRANTED

15. MERIT ISSUE COMPLAINT APPEALS

On April 6, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

CASE HEARD BY A STAFF HEARING OFFICER

- A. SANDRA RICE, ROBERT PALMER AND JILL GALLAGHER, Case Nos. 98-1307, 98-1306 and 98-1308
Limited term and intermittent appointments

ACTION: DENIED

- B. AVEGAIL DOBELL, Case No. 98-3954
Physical Abilities test disqualification

ACTION: DENIED

DISMISSAL CASE

CASE NOT HEARD BY A STAFF HEARING OFFICER

- * PHILIP B. GAEDE, Case No. 98-5131
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

16. REQUEST TO FILE CHARGES CASES

On April 6, 1999, the Board took the following actions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

CASES NOT HEARD BY A STAFF HEARING OFFICER

- A. PETITIONER: Michael Evans, an employee of the Office of State Controller.
ACTION: GRANTED - Petitioner submitted evidence substantiating his allegations.
- B. PETITIONER: Clelen C. Tanner, a member of the general public.
ACTION: DENIED - Appellant failed to submit substantiating evidence of wrongdoing.

17. NON-HEARING CALENDAR

On April 6, 1999, the Board adopted items A-C. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

- A. LAND SURVEYOR, CALTRANS
Amendment to the status resolution for the Land Surveyor, Caltrans classification adopted by the State Personnel Board on October 7, 1998.
- B. SENIOR PROPERTY APPRAISER/INVESTIGATOR
SUPERVISING PROPERTY APPRAISER/INVESTIGATOR
The Office of Real Estate Appraisers proposes revisions to the licensing requirement for the Senior Property Appraiser/Investigator and Supervising Property Appraiser/Investigator classes and other specification revisions to the class series.

- C. SENIOR TRANSPORTATION ELECTRICAL ENGINEER (SPECIALIST)
SENIOR TRANSPORTATION ELECTRICAL ENGINEER (SUPERVISOR)
SENIOR ELECTRICAL ENGINEER, CALTRANS (SPECIALIST)
SENIOR ELECTRICAL ENGINEER, CALTRANS (SUPERVISOR)
SENIOR MECHANICAL ENGINEER, CALTRANS (SPECIALIST)
SENIOR MECHANICAL ENGINEER, CALTRANS (SUPERVISOR)

SENIOR ELECTRONIC ENGINEER, CALTRANS

The Department of Transportation proposes to revise the minimum qualifications for the following classes:

Senior Transportation Electrical Engineer (Specialist)
Senior Transportation Electrical Engineer (Supervisor)
Senior Electrical Engineer, Caltrans (Specialist)
Senior Electrical Engineer, Caltrans (Supervisor)
Senior Mechanical Engineer, Caltrans (Specialist)
Senior Mechanical Engineer, Caltrans (Supervisor)
Senior Electronic Engineer, Caltrans

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION

- (1) CHIEF, INFORMATION TECHNOLOGY BRANCH
CHIEF, FINANCIAL & MANAGEMENT SERVICES BRANCH
CHIEF, HUMAN RESOURCES & SUPPORT SERVICES BRANCH
The California Energy Commission proposes to allocate the above positions to the CEA category. The Department indicates that these positions will report to the Executive Directorate and will be responsible for developing, implementing and evaluating policies within their functional area of responsibility. Currently, the Administrative Services Division is comprised of the above three branches under the direction of a CEA 2. The Commission proposes to reorganize the division, remove the CEA 2 designation and create three distinct and separate branches, each with a CEA. (Board meeting of March 23, 1999.)

- (2) CHIEF, BUSINESS SYSTEMS
CHIEF, TECHNOLOGY
The State Controller's Office proposes to allocate the above positions to the CEA category. The Department indicates that these positions will report to the Chief, Information Systems Division and will be responsible for setting policy within their functional area of responsibility. (Board meeting of March 23, 1999.)

(3) ASSISTANT SUPERINTENDENT (VENTURA YOUTH
CORRECTIONAL FACILITY)

The Department of the Youth Authority proposes to allocate the above position to the CEA category. The Department indicates that this position will

report to the Superintendent and will be responsible for the development, implementation and administration of the policies and procedures to meet the objectives of the institution's treatment, classification, diagnosis, education, security, training and fiscal programs related to the female population. (Board meeting of April 6, 1999.)

(4) CHIEF INFORMATION OFFICER

The Department of Finance proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Program Budget Manager and will be responsible for the recommendation and development of policies regarding the effective use of information technology in support of the Department's mission. (Board meeting of April 6 1999.)

(5) DIRECTOR, DIVISION OF LEGAL SUPPORT AND TECHNOLOGY

The Department of Justice proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief Deputy, Administration and Policy and will serve as key policy maker in relation to computer technology issues for the Department. (Board meeting of April 6, 1999.)

(6) PROGRAM MANAGER, HUMAN RESOURCES MANAGEMENT AND
PAYROLL SYSTEMS

The Office of the State Controller proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief, Information Systems Division and will be responsible for policy decisions relative to the development, implementation and initial maintenance of the Human Resources Management and Payroll Systems. (Board meeting of April 6, 1999.)

B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR
DENIED BY SPB MANAGEMENT

(1) REGIONAL ADMINISTRATOR

The Department of Corrections' proposed allocation of two positions to the CEA category to perform the duties of the above position has been approved.

(2) CHIEF, BUDGET MANAGEMENT

ASSISTANT DEPUTY DIRECTOR, OFFICE OF SUPPORT SERVICES

The Department of Corrections' proposed allocation of two positions to the CEA category to perform the duties of the above positions has been withdrawn by the Department.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. DORIS JONES, CASE NO. 97-5107. Appeal from constructive medical termination. Department of Transportation, (Oral argument held November 5, 1998.)

ACTION: On April 6, 1999, adopted Board decision dismissing appeal from constructive medical termination and denial of reasonable accommodation.*99-06

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

2. ROBERT DAVIS, CASE NO. 97-2572. Appeal from dismissal. Department of Corrections, (Oral argument held November 5, 1998.)

ACTION: On April 6, 1999, adopted Board decision sustaining dismissal.

VOTE: Carpenter, Alvarado, Elkins, Ward - Aye.

(Bos - Dissenting)

3. SUSAN ALEXANDER, CASE NO. 97-0100. Appeal from constructive medical termination. Department of Fish and Game, (Oral argument held December 8, 1999.)

ACTION: On April 6, 1999, adopted Board decision dismissing appeal from constructive medical termination.*99-04

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

4. LINDA J. GRIER, CASE NO. 97-3213. Appeal from medical demotion. Department of Health Services, (Oral argument held January 5, 1999.)

ACTION: On April 6, 1999, adopted Board decision dismissing medical demotion.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

*Adopted as Precedential Decision (s) #'s 99-06, and 99-04, respectively. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

5. CHRISTINE RUELAS, CASE NO. 36860. Appeal from medical termination. State Board of Control, (Written argument presented January 5, 1999.)

ACTION: On April 6, 1999, adopted Board decision sustaining medical termination.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

6. JANET E. MOOREHEAD, CASE NO. 97-1989. Appeal from 60-calendar days' suspension. Department of Corrections, (Oral argument held January 5, 1999.)

ACTION: On April 6, 1999, adopted Board decision revoking suspension.

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

7. MICHAEL D. BUNNELL, CASE NO. 96-2675. Appeal for determination of back salary, benefits, and interest after reinstatement. Department of Corrections, (Oral argument held January 5, 1999.)

ACTION: On April 6, 1999, adopted Board decision determining amount of back pay and benefits.*99-05

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.

8. JALAL EMAMI, CASE NO. 98-2116. Appeal from constructive medical termination. Department of Water Resources, (Oral argument held March 9, 1999.)

NO ACTION

*Adopted as Precedential Decision #99-05. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

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9. RANDY L. MORENO, CASE NO. 97-4017. Appeal from demotion. Department of Development Services, (Oral argument held March 9, 1999.)

NO ACTION

10. THOMAS MARSHALL, CASE NO. 98-1336. Appeal from non-renewal of employment Head Coach, California State Polytechnic University of Pomona, (Oral argument held March 9, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

April 6, 1999

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 6, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Alvarado, Elkins, Ward - Aye.